

ESHB 2984 - S COMM AMD

By Committee on Financial Institutions, Housing & Consumer
Protection

ADOPTED 03/01/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that as new market-
4 rate housing developments are constructed and housing costs rise, there
5 is a significant and growing number of low-income households that
6 cannot afford market-rate housing in Washington state. The legislature
7 finds that assistance to low-income households that cannot afford
8 market-rate housing requires a broad variety of tools to address this
9 serious, statewide problem. The legislature further finds that absent
10 any incentives to provide low-income housing, market conditions will
11 result in housing developments in many areas that lack units affordable
12 to low-income households, circumstances that can cause adverse
13 socioeconomic effects.

14 The legislature encourages cities, towns, and counties to enact or
15 expand affordable housing incentive programs, including density bonuses
16 and other incentives, to increase the availability of low-income
17 housing for renter and owner occupancy that is located in largely
18 market-rate housing developments throughout the community, consistent
19 with local needs and adopted comprehensive plans. While this act
20 establishes minimum standards for those cities, towns, and counties
21 choosing to implement or expand upon an affordable housing incentive
22 program, cities, towns, and counties are encouraged to enact programs
23 that address local circumstances and conditions while simultaneously
24 contributing to the statewide need for additional low-income housing.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
26 to read as follows:

27 (1)(a) Any city or county planning under RCW 36.70A.040 may enact
28 or expand affordable housing incentive programs providing for the

1 development of low-income housing units through development
2 regulations. An affordable housing incentive program may include, but
3 is not limited to:

4 (i) Density bonuses within the urban growth area;

5 (ii) Height and bulk bonuses;

6 (iii) Fee waivers or exemptions;

7 (iv) Parking reductions;

8 (v) Expedited permitting, conditioned on provision of low-income
9 housing units; or

10 (vi) Mixed use projects.

11 (b) The city or county may enact or expand such programs whether or
12 not the programs may impose a tax, fee, or charge on the development or
13 construction of property.

14 (c) If a developer chooses not to participate in an optional
15 affordable housing incentive program adopted and authorized under this
16 section, a city, county, or town may not condition, deny, or delay the
17 issuance of a permit or development approval that is consistent with
18 zoning and development standards on the subject property absent
19 incentive provisions of this program.

20 (2) Affordable housing incentive programs enacted or expanded under
21 this section shall comply with the following:

22 (a) The incentives or bonuses shall provide for the construction of
23 low-income housing units;

24 (b) Jurisdictions shall establish standards for low-income renter
25 or owner occupancy housing, including income guidelines consistent with
26 local housing needs, to assist low-income households that cannot afford
27 market-rate housing. Low-income households are defined for renter and
28 owner occupancy program purposes as follows:

29 (i) Rental housing units to be developed shall be affordable to and
30 occupied by households with an income of fifty percent or less of the
31 county median family income, adjusted for family size; and

32 (ii) Owner occupancy housing units shall be affordable to and
33 occupied by households with an income of eighty percent or less of the
34 county median family income, adjusted for family size. The legislative
35 authority of a jurisdiction, after holding a public hearing, may
36 establish lower income levels. The legislative authority of a
37 jurisdiction, after holding a public hearing, may also establish higher
38 income levels for rental housing or for owner occupancy housing upon

1 finding that higher income levels are needed to address local housing
2 market conditions. The higher income level for rental housing may not
3 exceed eighty percent of the county area median family income. The
4 higher income level for owner occupancy housing may not exceed one
5 hundred percent of the county area median family income. These
6 established higher income levels must be considered "low-income" for
7 the purposes of this section;

8 (c) The jurisdiction shall establish a maximum rent level or sales
9 price for each low-income housing unit developed under the terms of a
10 program and may adjust these levels or prices based on the average size
11 of the household expected to occupy the unit. For renter-occupied
12 housing units, the total housing costs, including basic utilities as
13 determined by the jurisdiction, may not exceed thirty percent of the
14 income limit for the low-income housing unit;

15 (d) Low-income housing units shall be provided in a range of sizes
16 comparable to those units that are available to other residents. To
17 the extent practicable, the number of bedrooms in low-income units must
18 be in the same proportion as the number of bedrooms in units within the
19 entire building. The low-income units shall generally be distributed
20 throughout the building, except that units may be provided in an
21 adjacent building. The low-income units shall have substantially the
22 same functionality as the other units in the building or buildings;

23 (e) Low-income housing units developed under an affordable housing
24 incentive program shall be committed to continuing affordability for at
25 least fifty years. A local government, however, may accept payments in
26 lieu of continuing affordability. The program shall include measures
27 to enforce continuing affordability and income standards applicable to
28 low-income units constructed under this section that may include, but
29 are not limited to, covenants, options, or other agreements to be
30 executed and recorded by owners and developers;

31 (f) Programs authorized under subsection (1) of this section may
32 apply to part or all of a jurisdiction and different standards may be
33 applied to different areas within a jurisdiction. Programs authorized
34 under this section may be modified to meet local needs and may include
35 provisions not expressly provided in this section or RCW 82.02.020; and

36 (g) Low-income housing units developed under an affordable housing
37 incentive program are encouraged to be provided within market-rate
38 housing developments for which a bonus or incentive is provided.

1 However, programs may allow units to be provided in an adjacent
2 building and may allow payments of money or property in lieu of
3 low-income housing units if the payment equals the approximate cost of
4 developing the same number and quality of housing units that would
5 otherwise be developed. Any city or county shall use these funds or
6 property to support the development of low-income housing, including
7 support provided through loans or grants to public or private owners or
8 developers of housing.

9 (3) Affordable housing incentive programs enacted or expanded under
10 this section may be applied within the jurisdiction to address the need
11 for increased residential development, consistent with local growth
12 management and housing policies, as follows:

13 (a) The jurisdiction shall identify certain land use designations
14 within a geographic area where increased residential development will
15 assist in achieving local growth management and housing policies;

16 (b) The jurisdiction shall provide increased residential
17 development capacity through zoning changes, bonus densities, height
18 and bulk increases, parking reductions, or other regulatory changes or
19 other incentives;

20 (c) The jurisdiction shall determine that increased residential
21 development capacity or other incentives can be achieved within the
22 identified area, subject to consideration of other regulatory controls
23 on development; and

24 (d) The jurisdiction may establish a minimum amount of affordable
25 housing that must be provided by all residential developments being
26 built under the revised regulations, consistent with the requirements
27 of this section.

28 **Sec. 3.** RCW 82.02.020 and 2005 c 502 s 5 are each amended to read
29 as follows:

30 Except only as expressly provided in chapters 67.28 and 82.14 RCW,
31 the state preempts the field of imposing taxes upon retail sales of
32 tangible personal property, the use of tangible personal property,
33 parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances,
34 and cigarettes, and no county, town, or other municipal subdivision
35 shall have the right to impose taxes of that nature. Except as
36 provided in RCW 82.02.050 through 82.02.090, no county, city, town, or
37 other municipal corporation shall impose any tax, fee, or charge,

1 either direct or indirect, on the construction or reconstruction of
2 residential buildings, commercial buildings, industrial buildings, or
3 on any other building or building space or appurtenance thereto, or on
4 the development, subdivision, classification, or reclassification of
5 land. However, this section does not preclude dedications of land or
6 easements within the proposed development or plat which the county,
7 city, town, or other municipal corporation can demonstrate are
8 reasonably necessary as a direct result of the proposed development or
9 plat to which the dedication of land or easement is to apply.

10 This section does not prohibit voluntary agreements with counties,
11 cities, towns, or other municipal corporations that allow a payment in
12 lieu of a dedication of land or to mitigate a direct impact that has
13 been identified as a consequence of a proposed development,
14 subdivision, or plat. A local government shall not use such voluntary
15 agreements for local off-site transportation improvements within the
16 geographic boundaries of the area or areas covered by an adopted
17 transportation program authorized by chapter 39.92 RCW. Any such
18 voluntary agreement is subject to the following provisions:

19 (1) The payment shall be held in a reserve account and may only be
20 expended to fund a capital improvement agreed upon by the parties to
21 mitigate the identified, direct impact;

22 (2) The payment shall be expended in all cases within five years of
23 collection; and

24 (3) Any payment not so expended shall be refunded with interest to
25 be calculated from the original date the deposit was received by the
26 county and at the same rate applied to tax refunds pursuant to RCW
27 84.69.100; however, if the payment is not expended within five years
28 due to delay attributable to the developer, the payment shall be
29 refunded without interest.

30 No county, city, town, or other municipal corporation shall require
31 any payment as part of such a voluntary agreement which the county,
32 city, town, or other municipal corporation cannot establish is
33 reasonably necessary as a direct result of the proposed development or
34 plat.

35 Nothing in this section prohibits cities, towns, counties, or other
36 municipal corporations from collecting reasonable fees from an
37 applicant for a permit or other governmental approval to cover the cost

1 to the city, town, county, or other municipal corporation of processing
2 applications, inspecting and reviewing plans, or preparing detailed
3 statements required by chapter 43.21C RCW.

4 This section does not limit the existing authority of any county,
5 city, town, or other municipal corporation to impose special
6 assessments on property specifically benefitted thereby in the manner
7 prescribed by law.

8 Nothing in this section prohibits counties, cities, or towns from
9 imposing or permits counties, cities, or towns to impose water, sewer,
10 natural gas, drainage utility, and drainage system charges: PROVIDED,
11 That no such charge shall exceed the proportionate share of such
12 utility or system's capital costs which the county, city, or town can
13 demonstrate are attributable to the property being charged: PROVIDED
14 FURTHER, That these provisions shall not be interpreted to expand or
15 contract any existing authority of counties, cities, or towns to impose
16 such charges.

17 Nothing in this section prohibits a transportation benefit district
18 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
19 the legislative authority of a county, city, or town from approving the
20 imposition of such fees within a transportation benefit district.

21 Nothing in this section prohibits counties, cities, or towns from
22 imposing transportation impact fees authorized pursuant to chapter
23 39.92 RCW.

24 Nothing in this section prohibits counties, cities, or towns from
25 requiring property owners to provide relocation assistance to tenants
26 under RCW 59.18.440 and 59.18.450.

27 Nothing in this section limits the authority of counties, cities,
28 or towns to implement programs consistent with section 2 of this act,
29 nor to enforce agreements made pursuant to such programs.

30 This section does not apply to special purpose districts formed and
31 acting pursuant to Titles 54, 57, or 87 RCW, nor is the authority
32 conferred by these titles affected.

33 NEW SECTION. **Sec. 4.** The powers granted in this act are
34 supplemental and additional to the powers otherwise held by local
35 governments, and nothing in this act shall be construed as a limit on
36 such powers. The authority granted in this act shall extend to any

1 affordable housing incentive program enacted or expanded prior to the
2 effective date of this act if the extension is adopted by the
3 applicable local government in an ordinance or resolution."

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4 On page 1, line 1 of the title, after "programs;" strike the
5 remainder of the title and insert "amending RCW 82.02.020; adding a new
6 section to chapter 36.70A RCW; and creating new sections."

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